

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5567 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos. 1 to 5 No.

GULAM HUSSAIN NOOR MOHAMMAD SHAIKH

Versus

S. T CORPORATION CENTRAL WORKSHOP NARODA ROAD,

Appearance:

MR HK RATHOD for Petitioner
MR.MAJGAVKAR FOR MR SN SHELAT for Respondent.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 19/07/96

ORAL JUDGEMENT

This Special Civil Application is directed against the award dated 13.5.1992 passed by the Industrial Tribunal, Gujarat at Ahmedabad in Reference (IT) No.95/92 whereby the reference was rejected as also the subsequent order dated 21.7.1992 passed in the Review Application No.2 of 1992 by the Industrial Tribunal, Gujarat at Ahmedabad.

The dispute is about the date of birth of the petitioner. It is an admitted position that in the year 1960 when the petitioner joined the services of the corporation, he gave his date of birth as 5.6.1934 and the same was accordingly recorded in his service record. In his academic record including the school leaving certificate his date of birth was 5.6.1934. The petitioner joined the services in the year 1960. After the period of 25 years in the year 1985, the petitioner applied for change of his date of birth because the circular of the corporation provides such an opportunity to the employees seeking correction in the date of birth. The petitioner wanted his date of birth to be changed to that of 18.2.1938 instead of 5.6.1934 and after applying for such a change before the Corporation the petitioner raised industrial dispute in the year 1991 and the reference was made to the industrial tribunal on 20.2.1992. The petitioner retired from the services of the corporation while working as artisan in the workshop in June, 1992 on the basis of his date of birth i.e. 5.6.1934 which was recorded at the time when he entered the services. The tribunal after considering the facts came to the conclusion that the petitioner's date of birth as recorded at the time of his entering the services was 5.6.1934 and for the purpose of retirement the date of birth could not be taken as 18.2.1938 on the basis of the certificate which had been obtained from Ahmedabad Municipal Corporation based on the birth register. After the award dated 13.5.1992 rejecting the reference the petitioner further obtained vaccination certificate in which his name was mentioned and accordingly he applied before the tribunal for review of the order dated 13.5.1992 but that review application was also rejected on 21.7.1992.

I have heard the learned counsel. It is an admitted position that at the time of entering the service in the year 1960 the petitioner gave out his date of birth as 5.6.1934 and this date of birth has been there through out in his academic record. He has applied for his change of date of birth after 25 years. When he was due to retire in June, 1992 he raised dispute in 1991 and the reference has been rejected. This controversy has been settled in a catena of decisions of the Supreme Court and last but not the least being the decision reported in JT 1996(3) SC 72 in the case of Union of India Vs. Ram Sua Sharma. Merely because the rules of the corporation provided for an opportunity to get the date of birth corrected, it cannot be said that the petitioner would get his date of birth changed or corrected as a matter of right. The corporation did not

accede to the petitioner's request and on dispute being raised by the petitioner reference has been rejected and subsequently review application has also been rejected. Even if the petitioner's date of birth is found to be 18.2.1938 as per the birth register issued by the Municipal Corporation for the purpose of retirement from the service the date of birth recorded at the time entry into service could be adhered to by Gujarat State Road Transport Corporation and there is no basis to interfere with the findings recorded by the Industrial Tribunal. I do not find any infirmity in the order dated 13.5.1992 and/or subsequent order dated 21.7.1992 passed in review application. I do not find any merit in this Special Civil Application and the same is accordingly dismissed. Rule is hereby discharged. No order as to costs.
